IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20907 of 2004

Between:

Shaik Shah, S/o. Rashid Mia,
R/o. H.No.12-109, Sir Mubarak Street, Alampur, Mahabubnagar District.

..... PETITIONER

AND

1 A.P.S.R.T.C., rep. by its Managing Director, Musheerabad, Hyd-20.
2 Regional Manager, APSRTC, Mahabubnagar Region, Mahabubnagar.
3 The Depot Manager, APSRTC, Wanaparthy, Mahabubnagar District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the respondents and issue an appropriate writ Order or Direction, particularly one in the nature of Writ of Mandamus declaring that the order passed by the 3rd respondent in proceedings No.02/104(259)/86-WNP, dated 17.9.1986, confirmed by the Divisional Manager by proceedings No.ST/27(94)/86-MBNR, dt. 31.12.1986, and further confirmed by the 2nd respondent by proceedings No.RM(GR)/27(13)/WNP/87, dt. 31.10.1988 as illegal, unjust, contrary to law, in violation of principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India, and grant all consequential benefits.

Counsel for the Petitioner: MR.GADI.PRAVEEN KUMAR

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following:

ORDER:

The petitioner is working as a Conductor in the respondent -Corporation. He was issued a charge sheet on 17-4-1986 alleging that he failed to observe the rule "issue and start" and further alleged that he failed to issue tickets to five passengers. Pending enquiry, it appears that the petitioner was placed under suspension. He submitted his explanation on 19-4-1986 denying the allegations and after receiving the explanation of the petitioner, a final order was passed by the 3rd respondent imposing the punishment of deferment of two annual increments for a period of two years with cumulative effect and treating the period of suspension as not on duty. Against the said punishment, the petitioner preferred an appeal before the Divisional Manager and he also confirmed the punishment imposed by the 3rd respondent. Thereafter the petitioner preferred review before the then Regional Manager and he also rejected the review. The petitioner questions the impugned order on the ground that imposing punishment of deferment of two annual increments for a period of two years with cumulative effect and treating the period of suspension as not on duty without conducting a regular enquiry in the department itself is bad and contrary to the Rules and Regulations of the Corporation.

The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill Vs. State of Punjab**[1] wherein the Supreme Court held that imposition of a major punishment, without any enquiry is illegal and cannot be sustained. The petitioner therefore seeks to declare that the order passed by the 3rd

respondent is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 15 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is not liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in **Kulwant Singh Gill (1 supra),** the punishment imposed on the petitioner is treated as reduction of two increments without cumulative effect. The petitioner is not entitled for the difference of amount from the date of punishment till the date of this order, by virtue of this order. But, he is entitled to get increments notionally calculated and he is entitled for monitory benefit from the date of this order. No interference in the order of the respondents treating the period of absence as “Not on duty”.

The writ petition is accordingly disposed of with the above observations. No order as to costs.

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Dr.G.YETHIRAJULU, J

Dated: 16-11-2004

LSK/VS